
By: **Delegates Petzold, Vallario, Lee, and Menes**
Introduced and read first time: February 12, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud - Victims - Order of Court**

3 FOR the purpose of authorizing a certain person to petition a certain court for a
4 determination that the person is the victim of identity fraud; authorizing a
5 certain person to file a certain petition in a criminal proceeding for a certain
6 violation under certain circumstances; specifying that a certain petition must
7 include certain matters; requiring the court to provide a certain State's Attorney
8 with a copy of a certain petition; allowing a certain State's Attorney a certain
9 amount of time to respond to a certain petition and an opportunity to be heard;
10 requiring the court to conduct a certain hearing on a petition under certain
11 circumstances; requiring a certain hearing to be scheduled at a certain time;
12 providing that a certain judicial determination may be made on certain matters;
13 authorizing a court to issue certain orders under certain circumstances;
14 allowing a court to vacate a certain order under certain circumstances;
15 prohibiting an individual from knowingly providing false information in
16 connection with a certain petition; providing for certain penalties; and generally
17 relating to victims of identity fraud.

18 BY repealing and reenacting, without amendments,
19 Article - Criminal Law
20 Section 8-301(b), (c), and (d)
21 Annotated Code of Maryland
22 (2002 Volume and 2003 Supplement)

23 BY adding to
24 Article - Criminal Law
25 Section 8-303
26 Annotated Code of Maryland
27 (2002 Volume and 2003 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Criminal Law

2 8-301.

3 (b) A person may not knowingly, willfully, and with fraudulent intent possess,
4 obtain, or help another to possess or obtain any personal identifying information of an
5 individual, without the consent of the individual, in order to use, sell, or transfer the
6 information to get a benefit, credit, good, service, or other thing of value in the name
7 of the individual.

8 (c) A person may not knowingly and willfully assume the identity of another:

9 (1) to avoid identification, apprehension, or prosecution for a crime; or

10 (2) with fraudulent intent to:

11 (i) get a benefit, credit, good, service, or other thing of value; or

12 (ii) avoid the payment of debt or other legal obligation.

13 (d) (1) A person who violates this section where the benefit, credit, goods,
14 services, or other thing of value that is the subject of subsection (b) or (c) of this
15 section has a value of \$500 or greater is guilty of a felony and on conviction is subject
16 to imprisonment not exceeding 5 years or a fine not exceeding \$25,000 or both.

17 (2) A person who violates this section where the benefit, credit, goods,
18 services, or other thing of value that is the subject of subsection (b) or (c) of this
19 section has a value of less than \$500 is guilty of a misdemeanor and on conviction is
20 subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or
21 both.

22 (3) A person who violates this section under circumstances that
23 reasonably indicate that the person's intent was to manufacture, distribute, or
24 dispense another individual's personal identifying information without that
25 individual's consent is guilty of a felony and on conviction is subject to imprisonment
26 not exceeding 5 years or a fine not exceeding \$25,000 or both.

27 (4) A person who violates subsection (c)(1) of this section is guilty of a
28 misdemeanor and on conviction is subject to imprisonment not exceeding 18 months
29 or a fine not exceeding \$5,000 or both.

30 (5) When the violation of this section is pursuant to one scheme or
31 continuing course of conduct, whether from the same or several sources, the conduct
32 may be considered as one violation and the value of the benefit, credit, goods, services,
33 or other thing of value may be aggregated in determining whether the violation is a
34 felony or misdemeanor.

1 8-303.

2 (A) A PERSON WHO REASONABLY BELIEVES THAT THE PERSON IS THE VICTIM
3 OF IDENTITY FRAUD, AS PROHIBITED UNDER § 8-301 OF THIS SUBTITLE, MAY
4 PETITION THE DISTRICT COURT OR A CIRCUIT COURT FOR AN EXPEDITED
5 DETERMINATION THAT THE PERSON IS THE VICTIM OF IDENTITY FRAUD.

6 (B) IN A CRIMINAL PROCEEDING FOR A VIOLATION OF § 8-301 OF THIS
7 SUBTITLE, A PERSON MAY FILE A PETITION UNDER SUBSECTION (A) OF THIS
8 SECTION FOR DETERMINATION BY THE COURT WITH JURISDICTION OVER THE
9 CRIMINAL PROCEEDING THAT THE PERSON IS THE VICTIM OF IDENTITY FRAUD.

10 (C) A PETITION FILED UNDER THIS SECTION SHALL INCLUDE A DESCRIPTION
11 OF THE FACTS AND CIRCUMSTANCES RELATING TO THE IDENTITY FRAUD, A COPY OF
12 ANY RELATED POLICE REPORT, AND A STATEMENT OF THE NATURE OF THE RELIEF
13 SOUGHT BY THE PETITIONER.

14 (D) (1) IMMEDIATELY AFTER A PETITION HAS BEEN FILED UNDER THIS
15 SECTION, THE COURT SHALL PROVIDE THE STATE'S ATTORNEY FOR THE COUNTY IN
16 WHICH THE PETITION IS FILED WITH A COPY OF THE PETITION.

17 (2) THE STATE'S ATTORNEY MAY RESPOND TO THE PETITION WITHIN 30
18 DAYS AFTER RECEIPT OF THE PETITION AND MAY PROVIDE TESTIMONY AT A
19 HEARING ON THE PETITION UNDER SUBSECTION (E) OF THIS SECTION.

20 (E) AT LEAST 30 DAYS AFTER RECEIPT OF THE PETITION BY THE STATE'S
21 ATTORNEY, THE COURT SHALL CONDUCT A HEARING ON THE PETITION.

22 (F) A JUDICIAL DETERMINATION UNDER THIS SECTION MAY BE MADE UPON
23 TESTIMONY, AFFIDAVITS, POLICE REPORTS, OR OTHER MATERIAL, RELEVANT, AND
24 RELIABLE INFORMATION OR DOCUMENTATION SUBMITTED BY THE PETITIONER AND
25 OTHER INTERESTED PARTIES.

26 (G) IF THE COURT DETERMINES THAT THE PETITIONER IS THE VICTIM OF
27 IDENTITY FRAUD, THE COURT SHALL ISSUE AN ORDER DECLARING THAT THE
28 PETITIONER IS THE VICTIM OF IDENTITY FRAUD, AND MAY ALSO ISSUE SUCH OTHER
29 ORDERS AS ARE NECESSARY TO ASSIST THE PETITIONER IN CORRECTING
30 ERRONEOUS INFORMATION THAT HAS RESULTED FROM THE IDENTITY FRAUD.

31 (H) A COURT THAT HAS ISSUED A DETERMINATION UNDER THIS SECTION MAY
32 AT ANY TIME VACATE THAT DETERMINATION IF THE PETITION, OR ANY
33 INFORMATION SUBMITTED IN SUPPORT OF THE PETITION, IS FOUND TO CONTAIN
34 ANY MATERIAL MISREPRESENTATION OR FRAUD.

35 (I) AN INDIVIDUAL WHO KNOWINGLY PROVIDES FALSE INFORMATION IN
36 CONNECTION WITH A PETITION FILED UNDER THIS SECTION IS GUILTY OF A
37 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
38 EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2004.